

Moore
(09/829,643

REMARKS

The undersigned requests a personal interview with the Examiner in charge of this application.

Claims 24 and 25 were rejected as being unpatentable over Randall in view of Franklin.

Claims 26-33 were rejected as being unpatentable over the above references and further in view of The Visual Dictionary of Baseball.

The Randall patent discloses a ball which is very similar to the ball used in the present invention. What Randall does not teach or suggest is the method of the present invention. In Randall, the patentee has devised a projectile which may be used in games "similar to baseball, or in other throwing and batting games" (col. 1, first paragraph). The present invention is for a method "for improving player batting averages" (page 2) and "Playing under Official Rules and other sanctioning authorities' rules" (page 36, second paragraph, of the specification). In Randall, the purpose is to use a projectile which is "safe, especially for younger children" (col. 1, lines 10-15) and "will not roll as freely as an ordinary ball ...and thus is adapted for play in relatively confined areas or restricted grounds" (col. 1, lines 16-19). In the present invention, the method is to follow baseball's official rules to improve the batting average of a batter.

The Franklin Instructional Booklet for Major League Pitching Trainer is designed to show pitchers how to throw certain kinds of pitches. It is not seen how it would be logical to combine art devoted to a child's game played in limited size spaces with what is in effect a professional guide for baseball players. Since the purposes of these two pieces of art are so diametrically opposed to each other, the suggestion for combining this art can only come from the teachings of this application.

The same deficiency applies with respect to TVDB which is designed to inform about major league baseball. Persons interested in Randall's idea of baseball would be no more interested in what is disclosed in TVDB than persons interested in TVDB would be interested in what Randall is teaching. The gulf is so large.

Claim 24 has been amended to further limit the claimed subject matter in a manner to highlight these differences. The preamble has been changed to call for a method for improving the batting average of a baseball player during a game of baseball. The emphasis here is on the batter - improving the ability of a batter. The art cited for combination with Randall is directed to improve the ability of a pitcher. Randall, of course, does not seem interested in

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improving any player's ability, only to insure safety of children and providing for the playing of a game in a very restricted area, as pointed out above.

Claim 24 has also been amended to recite that the method involves playing the game in accordance with the official rules of baseball, also pointed out above.

Also, it is now recited as a positive method step the selection of a pitcher of lesser skill to do the pitching. There certainly is no suggestion of this anywhere in the art of record.

So, now we have a game being played according to the official rules governing baseball specifically directed for improving the batting average of a base ball player, and specifically call for the use of a pitcher of lesser skill because, as described in the specification, this results in a more efficient method of improving batting skills (see top of page 37).

There is nothing in the art of record, in any conceivable yet logical combination of references, which would suggest the method now called for in claim 24, for the reasons given above.

In view of the foregoing, it is believed that the claims are drawn to patentable subject matter and should be allowed.

The Examiner is requested to call the undersigned or Mr. Kroll if any changes are required to obtain allowance of this application.

A favourable action is solicited.

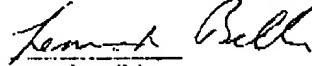
Respectfully submitted,


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CERTIFICATE OF FAXING

I hereby certify that this correspondence is being facsimile transmitted to the U. S. Patent and Trademark Office, telephone number 703-872-9306 on June 19, 2004.


Leonard Belkin